

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LITTLE CAPITOL OF LOUISIANA, INC.

AI # 19443

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-UE-05-0036  
\*  
\* Enforcement Tracking No.  
\* UE-P-03-0202.  
\*  
\* Docket No. 2004-7414-EQ  
\*  
\*

SETTLEMENT

The following Settlement is hereby agreed to between Little Capitol Of Louisiana, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who owns and/or operates underground storage tanks (USTs) at a facility located at 2939 Grand Point Highway in Breaux Bridge, St. Martin Parish, Louisiana ("the Facility").

II

On June 11, 2004, the Department issued a Penalty Assessment, Enforcement No. UE-P-03-0202, in the amount of Eight Thousand Seven Hundred Eighty-six and 41/100 Dollars (\$8,786.41) to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates five underground storage tanks (USTs) at a facility

known to the Department as Diesi's Little Capitol Exxon. The Respondent submitted a completed registration form for its USTs and was assigned facility identification number 50-014643. The facility is located at 2939 Grand Point Highway in Breaux Bridge, St. Martin Parish, Louisiana.

On January 31, 2002, an inspection of the facility revealed the following violations:

- A. The Respondent failed to perform cathodic protection testing every three (3) years, in violation of LAC 33:XI.503.B.
- B. The Respondent failed to monitor the tanks at least every thirty (30) days for releases using one of the methods listed in LAC 33:XI.701.A., in violation of LAC 33:XI.703.B.1.

### III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

### IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) of which Two Hundred Twenty-nine and 37/100 Dollars (\$229.37) represents DEQ's enforcement costs, in settlement of the

claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

## VI

Respondent also agrees to require its facility representative or representatives to attend and complete Underground Storage Tank Training. Respondent agrees and acknowledges that the training must be completed prior to final approval of this Settlement.

## VII

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## IX

This settlement is being made in the interest of settling the state's claims and avoiding for

both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

#### X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Martin Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

#### XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

#### XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

### XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

LITTLE CAPITOL OF LOUISIANA, INC.

BY: Salvador L. Diesi  
(Signature)

SALVADOR L. DIESI

(Print)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 13th day of  
February, 20 06, at Arnaudville, Louisiana.

Joan-Clair Thibodeaux  
NOTARY PUBLIC (ID # 46024)

Jean-Claire Thibodeaux  
(Print)

LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 4th day of  
May, 20 06, at Baton Rouge, Louisiana.

J. R. B. B. B.  
NOTARY PUBLIC (ID # 20456)

(Print)

Approved: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary